(3)

Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 187 OF 2005

PETITIONER Lakshman Rao Bapat, son of Shripat Rao Bapat, aged about 60 years, resident of Satti Bazar, Raipur.

VS

RESPONDENTS

1. Smt. Alka Bapat, wife of Late Avinash Bapat, aged about 45 years, resident of Satti Bazar, Raipur.
2. Ashwini Bapat, son of Late Avinash Bapat, aged about 27 years, resident of Satti Bazar, Raipur.
3. Akash Bapat, son of Late Avinash Bapat, aged about 23 years, resident of Satti Bazar, Raipur.
4. State of Chhattisgarh, through the Collector, Raipur.

R.E.No. 168/05 Dy. Sharma
Processed on 14-01-05

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA.

GROUNDS OF THE PETITIONER:

(33)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	25.1.2005 Shri B.P. Sharma, counsel for the petitioner. Smt. Fouzia Mirza, Panel Lawyer for the State/respondent No.4. The petitioner has preferred this petition under Article 227 of the Constitution of India questioning the legality, propriety and correctness of the order dated 27.11.2004 (Annexure P-1) whereby learned trial court has rejected the application preferred by the petitioner under Order 7 Rules 10 & 11 of CPC for rejection of the plaint on the ground that suit has not been properly valued and sufficient court fee has not been paid. Learned trial court vide impugned order rejected the said application of the petitioner observing that since the plaint is for declaration of rights not for partition, therefore, it has been properly valued and sufficient court fee has been paid. I have heard learned counsel for the parties. Learned counsel for the petitioner submits that respondent No.1 to 3 are not in possession of the suit property and in fact they are seeking partition in the garb of declaration. Therefore, they ought to have paid the court fee for partition of the property in question. So far the petitioner has not filed his written statement before the court below, therefore, he can raise the aforesaid point in the written statement and trial court will frame the issue on this point and decide the same as a preliminary issue. With the above observation, this petition stands disposed of. Consequently, M.W.P. No.161/2005 & I.A. No.416/2005 also stand disposed of. **Sd/-** **L.C. Bhadoo** **Judge**	